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USIB-D-17. 1/22  
25 May 1966

UNITED STATES INTELLIGENCE BOARD

MEMORANDUM FOR THE UNITED STATES INTELLIGENCE BOARD

SUBJECT : Responsibility of the USIB and US-MICC for  
Release of Intelligence to Foreign Governments

REFERENCES : a. IAC-D-115/2, 17 June 1958  
b. MIC 206/29-64, 1 August 1964  
c. USIB-D-17. 7/3, 3 January 1966  
d. USIB-M-427, Item 6. g. , 24 March 1966

1. The enclosed memorandum and its attachment from the Central Intelligence Agency (CIA) Member, prepared in the light of the Board's discussion of this subject (reference d.), is circulated to the United States Intelligence Board (USIB) for consideration of the recommendations proposed in Section E of the attachment to Mr. Helm's memorandum.

2. It is planned to schedule this paper on the agenda of an early meeting of the USIB.

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Executive Secretary

Enclosure

*See  
USIB-M-436, Item 5, 9 June 1966*

GROUP 1  
Excluded from automatic  
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**CENTRAL INTELLIGENCE AGENCY**

**WASHINGTON 25, D. C.**

USIB-D-17. 1/22

25 May 1966

24 May 1966

**MEMORANDUM FOR:** The United States Intelligence Board

**SUBJECT :** Responsibility of the United States Intelligence Board and the United States Military Information Control Committee for Release of Intelligence to Foreign Governments

1. At the USIB meeting of 24 March 1966, a brief discussion took place regarding the responsibilities of USIB as compared with the United States Military Information Control Committee (US-MICC) concerning release of intelligence to foreign governments. At that time the Board did not reach any definitive conclusion or position on the question. Questions as to the responsibilities of USIB and US-MICC in release matters have also arisen from time to time in other contexts.

2. There is attached a brief analysis of the various directives and regulations related to this problem, which indicates that although there is no direct conflict between the authority and responsibilities of USIB and US-MICC in release matters, there is some ambiguity which has apparently led to uncertainty and misunderstanding. The attached analysis contains suggested actions by USIB which would lead to the elimination of these ambiguities.

3. It is recommended that USIB take the actions proposed in Section E of the attachment.

*Richard Helms*

Richard Helms  
CIA Member, USIB

Attachment

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Attachment

Responsibility and Authority of the United  
States Intelligence Board (USIB) and the  
United States Military Information Control  
Committee (US-MICC) with Respect to the  
Release of Intelligence to Foreign  
Governments

A. Responsibility and Authority of USIB

1. NSCID-1, para. 4.d., states "The Director of Central Intelligence...is further authorized to disseminate national intelligence and interdepartmental intelligence produced within the US Intelligence Board structure on a strictly controlled basis to foreign governments and international bodies upon his determination, with the concurrence of the US Intelligence Board that such action would promote the security of the United States: Provided, that such dissemination is consistent with existing statutes and Presidential policy including that reflected in international agreements...."

2. DCID 1/7, Controls for Dissemination and Use of Intelligence and Intelligence Information, issued by the Director of Central Intelligence with the concurrence of USIB, contains a section (para. 6.b.) concerning release to foreign governments.

3. Among the responsibilities assigned to USIB by NSCID-1, "subject to other established responsibilities under existing law and to the provisions of National Security Council directives," is the following: "Formulate, as appropriate, policies with respect to arrangements with foreign governments on intelligence matters." (para. 2.a.6)

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B. Responsibility and Authority of US-MICC

1. The most succinct statement of the responsibility and authority of US-MICC is contained in para. VIII A. of "Policy Governing the Disclosure of Classified Military Information to Foreign Governments and International Organizations" (short title, "United States National Disclosure Policy"), MIC 206/29-64. This statement is as follows:

"Pursuant to the authority vested in the Secretaries of State and Defense by the President [derived from that previously vested in the Secretaries of State, War and Navy on 27 February 1946, (see SWNCC 206/10)] the Secretaries of State and Defense on June 30, 1949, established the S-D MICC, hereby redesignated the United States Military Information Control Committee (US-MICC), to function as the agency of the Secretaries of State and Defense for developing, formulating, and promulgating policies and procedures governing the disclosure of classified United States military information to foreign governments consistent with the statement of basic policy approved by the President on the same date (SWNCC 206/9) and for supervising the implementation of such policies and procedures."

2. "Military information" is defined in Para. X, A. of MIC 206/29-64 in the following terms: "Military Information is information under the control and jurisdiction of the Department of Defense, its departments or agencies, or of primary interest to them."

3. "Intelligence" is defined in Para. X, I. of MIC 206/29-64 as follows: "Intelligence is (1) the product resulting from the collection, evaluation, analysis, integration, and interpretation of information which concerns foreign nations

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and other areas of operations and which is immediately or potentially significant to planning or (2) information of every description which is used in the production of intelligence. It includes facts, observations, reports, rumors, photographs, documents, etc."

4. US-MICC formulates policy and guidance for releasing classified military information primarily in terms of functional categories. There are 21 such categories, or "columns" in the tabular chart mentioned below, covering a variety of military subjects such as organization, tactical doctrine, operational employment, equipment, technical data, US order of battle, etc. Subject to certain conditions and limitations, these 21 categories ("columns") of classified military information may be released to foreign governments and international organizations in accordance with a tabular chart contained in MIC 206/29-64. Except for columns 18 and 19 (intelligence) they all relate primarily to information on US activities.

5. Column 18 is defined as: "Intelligence which is essential to the furtherance of the common military objectives of the US and the recipient government, or to enable that government to assess the capabilities, intentions or probable courses of action of a potential aggressor. (The disclosure of Departmental intelligence estimates, studies or conclusions of joint interest must be jointly approved, such joint approval to include concurrence in the substance.)"

6. Column 19 is defined as: "Intelligence pertaining to activities of the Sino-Soviet Bloc which the Department of Defense determines may be released on a reciprocal basis."

7. Requests for the release of classified military information not authorized in the tabular chart are referred to US-MICC as exceptions for consideration and decision. These exceptions may

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be of a specific, single item, or take the form of a continuing exception for the duration of a specific program or for a definite length of time.

8. The responsibility of the DCI for protection of intelligence sources and methods is specifically recognized by Para. II. D of MIC 206/29-64 in the following terms: "Nothing herein shall be construed as pre-empting, affecting, modifying or delegating the responsibility vested in the Director of Central Intelligence, under the National Security Act of 1947, as amended, for protecting intelligence sources and methods from unauthorized disclosure." Para. II. A. 4 further notes that the decision as to whether or not a proposed disclosure is inimical to the protection of United States intelligence sources and methods rests with the Director of Central Intelligence.

#### C. Analysis of Potential Areas of Conflict

1. (a) The most obvious area of conflict is that between USIB's responsibility for release of national or interdepartmental intelligence (which often contains military intelligence) and US-MICC's responsibility for release of classified military information, including military intelligence. In fact (although MIC 206/29-64, issued in August 1964, does not reflect it) this issue was resolved in 1958. At that time the Intelligence Advisory Committee (IAC), the predecessor of USIB, approved a statement entitled Criteria and Conditions Governing the Release of Intelligence to Foreign Governments by the IAC. This statement was modeled on and consistent with the criteria set forth in the then current Basic Policy Governing the Disclosure of Classified Military Information to Foreign Governments (MIC 206/29). Thereupon the Secretaries of State and Defense, in memoranda to the Director of Central Intelligence dated 11 June 1958 and 17 June 1958 respectively, stated: "Taking cognizance of

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NSCID-1 and of the criteria agreed to by the IAC as set forth in the IAC document entitled Criteria and Conditions Governing the Release of Intelligence to Foreign Governments by the IAC, it is understood that the authority of the Secretaries of State and Defense to exercise control of the release of classified military information under the Basic Policy Governing the Disclosure of Classified Military Information to Foreign Governments will not be applied to national intelligence and interdepartmental intelligence produced within the IAC structure which may contain military intelligence." (IAC-D-115/2, 17 June 1958)

(b) The above confirmation of the authority of the DCI and USIB, under NSCID-1, for the release of national and interdepartmental intelligence appears to be valid at present, even though no reference to it is contained in MIC 206/29-64. In fact, the DCI and USIB have regularly exercised this authority from 1958 to the present.

2. (a) A second problem area arises from the definition given in MIC 206/29-64 of "Military Information," i.e., "information under the control and jurisdiction of the Department of Defense, its departments or agencies, or of primary interest to them" (underlining supplied). CIA, and particularly its Clandestine Services, collect, as a service of common concern, military intelligence information in response to the requirements of the Department of Defense. The dissemination of this military intelligence information to foreign governments is governed by DCID 1/7, particularly para. 6. b. (1) thereof, which states "classified intelligence documents even though they bear no control markings shall not be released to foreign governments without the prior permission of the originating agency." Para. IV B of MIC 206/29-64 states that classified military information originated in a department or agency other than that proposing the disclosure cannot be released without

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authorization of the originating department or agency. There appears to be a basic consistency between DCID 1/7 and MIC 206/29-64 in this regard. Insofar as the release of individual, identified CIA intelligence information reports is concerned, CIA will grant or withhold authorization to any appropriate requesting authority.

(b) However, as indicated previously, MIC 206/29-64 permits US-MICC to grant certain exceptions of a continuing nature which exceed the classification categories set forth in the tabular chart or are not included in the definitions of functional categories. It is the view of CIA that US-MICC does not have authority to grant continuing exceptions to the provisions of DCID 1/7--such exceptions can only be made by the DCI and USIB.

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3. Certain of the wording in MIC 206/29-64 is susceptible to varying interpretation. This is particularly so of the definitions of "intelligence" and of the categories of intelligence in the tabular chart (Para. IV, C, Columns 18 and 19). It is possible to interpret these definitions as encompassing all intelligence (political, economic, and scientific, as well as military), and as subjecting release of all such intelligence which would enable the recipient government "to assess the capabilities, intentions or probable courses of action of a potential aggressor" (column 18) to the decision of US-MICC.

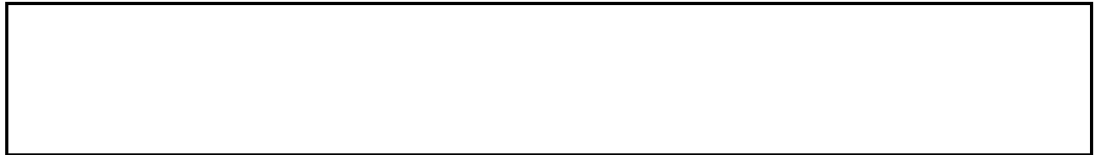
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4. The statement, in relation to column 18, "the disclosure of Departmental intelligence estimates, studies or conclusions of joint interest must be jointly approved, such joint approval to include concurrence in the substance" is unclear, both as to its meaning and its implementation.

5. MIC 206/29-64 does not recognize the responsibilities assigned to the DCI and CIA by NSCID-5 with respect to US espionage and counterintelligence activities abroad. These activities necessarily involve the release or exchange of intelligence collected or produced by CIA (including military intelligence) with foreign governments.



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#### D. Conclusions

Assuming the continued validity of the 1958 memoranda concerning national and interdepartmental intelligence, there does not appear to be any direct conflict between the responsibilities of US-MICC on the one hand and USIB and the DCI on the other. Nevertheless, there are areas of uncertainty, and cases may arise in which there is doubt as to where jurisdiction properly belongs. Suitable redefinition of the "intelligence" which is the legitimate concern of US-MICC, together with specific exclusion from US-MICC jurisdiction of release of intelligence incidental to activities authorized in NSCID-5 and NSCID-6 would remove much of this uncertainty. Nevertheless cases may occasionally arise, such as that discussed in para. C. 2. (b) above, in which both parties share jurisdiction. Such cases can be resolved through parallel action by both parties.

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### E. Recommendations

On the basis of the foregoing, and with a view toward reducing to a minimum the possibility of misunderstanding of the responsibilities of the DCI and USIB and of US-MICC for release of intelligence and intelligence information to foreign governments, it is recommended that USIB:

1. Reaffirm and reissue the statement Criteria and Conditions Governing the Release of Intelligence to Foreign Governments approved by the IAC on 11 June 1958. [This statement incorporating appropriate editorial changes, is attached as Tab A, and is consistent with the "conditions of disclosure" set forth in Policy Concerning the Disclosure of Classified Military Information to Foreign Governments and International Organizations (MIC 206/29-64).]

2. Request US-MICC to develop and seek appropriate approval for revisions of (or if more practicable from the point of view of security, addenda to) MIC 206/29-64 which would (a) affirm the understanding concerning national and inter-departmental intelligence contained in the memoranda to the DCI from the Secretaries of State and Defense of 11 June 1958 and 17 June 1958 respectively; (b) exempt from US-MICC jurisdiction such release of intelligence as might be conducted in accordance with responsibilities assigned in NSCID-5, [redacted] and [redacted] (c) refine the definitions of "intelligence" in paragraph V, C of MIC 206/29-64 to make it clear that the scope of the definitions is limited to military intelligence (including scientific, technical, and economic intelligence directly pertinent to the missions of the various components of the Department of Defense) produced or collected by the Department of Defense as distinct from political, economic, scientific, and other functional types of intelligence collected or produced by other departments or agencies.

3. Request US-MICC to advise USIB of actions taken by US-MICC with regard to 2. above.

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Tab A

"CRITERIA AND CONDITIONS GOVERNING THE  
RELEASE OF INTELLIGENCE TO FOREIGN  
GOVERNMENTS BY THE USIB"

1. Pursuant to NSCID-1 the Director of Central Intelligence is authorized to disseminate national intelligence and interdepartmental intelligence produced within the United States Intelligence Board structure on a strictly controlled basis to foreign governments and international bodies upon his determination with the concurrence of the USIB, that such action would substantially promote the security of the United States: Provided, that such dissemination is consistent with existing statutes and Presidential policy including that reflected in international agreements; and provided further that any disclosure of FBI intelligence information shall be cleared with that agency prior to dissemination. The Presidential directive of 25 May 1953 sets forth the requirement for determining "net advantage to the interests of the United States" prior to releasing classified information to foreign governments. The release of AE intelligence is governed by the provisions of the Atomic Energy Act of 1954.

2. The release of military intelligence is governed by "Basic Policy Governing the Disclosure of Classified Military Information to Foreign Governments," as approved by the President on 27 February 1946, and implemented by MIC 206/29-64. However, the authority of the Secretaries of State and Defense to exercise control of the release of classified military information under this policy will not be applied to the release of national intelligence and interdepartmental intelligence produced within the USIB structure which may contain military intelligence. Such release shall be governed by the policy set forth in paragraph 1 and shall be in conformity with the criteria listed below which are consistent with the criteria prescribed in MIC 206/29-64.

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3. Within the policy set forth in paragraph 1 the following additional criteria characterize intelligence which should not be released by the USIB to foreign governments:

a. Intelligence which may reveal sources and methods, such as:

i. A source or method of acquisition the revelation of which might jeopardize the operation or existence of a covert intelligence activity;

ii. A source or method of acquisition the revelation of which might identify and thereby jeopardize the safety, welfare or reputation of any individual connected therewith, or preclude the future use of such source or individual in the collection of intelligence or other activities;

iii. A source or method of acquisition which the recipient nation might use for propaganda purposes against the United States, or to impede a United States intelligence collection effort.

b. Intelligence on the recipient country or its possessions, dependencies or dominions, except that based upon information obtained with the consent of the recipient country, or from open sources.

c. Intelligence which is overtly obtained from another foreign government, or as the result of a combined effort with another foreign government, except when the intelligence is received without restrictions as to its further release to third nations.

d. Intelligence, the possession or use of which by the recipient nation would be likely to be harmful, derogatory or prejudicial to any United States Government interest.

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e. Intelligence, the release of which to foreign governments would be contrary to United States federal legislation or to agreements or treaties between the United States and foreign nations.

f. Intelligence, the release of which would be likely to be detrimental to the foreign policy of the U.S.

4. In addition to the above, release of intelligence will be effected only upon the satisfaction of the following specific conditions:

a. The recipient government will not release the information to a third government without the approval of the United States.



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b. The recipient government will afford to the information substantially the same degree of security protection afforded to it by the United States;

c. The recipient government will not use the information for other than national security purposes.

5. The criteria and conditions for the release of intelligence set forth above may be modified from time to time by the USIB upon the recommendation of any member thereof. In this connection, consideration will be given by the USIB to the criteria and conditions which the United States Military Information Control Committee may adopt, in order to assure that the respective criteria and conditions are consistent.

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